

REMARKS/ARGUMENTS

I. General

Claims 1-20 are pending in the present application. Claims 1-20 stand rejected under 35 U.S.C. § 102(b). Applicant respectfully traverses the rejections of record.

Applicant's attorney thanks the Examiner for his time and consideration in conducting the telephone interview of July 5, 2001. Submitted herewith are arguments clearly pointing out differences in the claims with respect to the applied art as suggested by the Examiner.

II. Priority Has Properly Been Claimed To July 24, 1997

35 U.S.C. § 120 provides that:

An application for patent . . . which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

Application serial number 08/899,953 (the grandparent patent application of the present case) was filed July 24, 1997, was restricted four ways during prosecution, and issued as patent number 6,058,415 on May 2, 2000 with claims identified with group III of the restriction. Application serial number 09/528,816 (the parent patent application of the present case) was filed March 20, 2000, claiming priority to co-pending application serial number 08/899,953 and presenting claims of group II thereof. The present application was filed May 19, 2000, claiming priority, through co-pending application serial number 09/528,816, to application serial number 08/899,953 and presenting claims of group I thereof.

37 C.F.R. § 1.78 provides that “any nonprovisional application claiming the benefit of one or more prior filed copending nonprovisional applications . . . must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) . . . and indicating the relationship of the applications.” The first line of the present application as filed states:

This application is a divisional of commonly assigned and [sic] United States patent number 6,058,415 filed July 24, 1997, entitled “SYSTEM AND METHOD FOR INTEGRATION OF COMMUNICATION SYSTEMS WITH COMPUTER-BASED INFORMATION SYSTEMS,” priority to which filing date is claimed through related commonly assigned and co-pending United States patent application serial number 09/528,816 filed March 20, 2000, entitled “ONE NUMBER LAN BASED CALENDAR,” the disclosures of which are hereby incorporated herein by reference.

Applicant asserts that all that is required under 35 U.S.C. § 120 to properly claim priority to the grandparent application having a filing date of July 24, 1997 has been done in the present case.

However, in light of the language of 37 C.F.R. § 1.78, setting forth that applications to which priority is claimed should be identified by application number, Applicant has amended the above sentence to include the grandparent application serial number 08/899,953. Accordingly, it is respectfully requested that the Office papers be corrected to reflect priority of filing to July 24, 1997. Additionally, the above identified sentence claiming priority has been amended to correct an informality discovered in the preparation of this Amendment. Specifically the word “and” has been deleted from the first line thereof.

III. Improper Finality

In the Response filed February 20, 2001, Applicant pointed out that *King* does not teach storing calendaring information on a general purpose processor-based system as recited

in claims 1 and 8. Likewise, Applicant pointed out that claims 2, 9, and 16 recite the calendaring information comprising a data file associated with an electronic calendar program operable on a personal computer. Claims 1, 2, 8, 9, and 16 again stand rejected under 35 U.S.C. § 102(b) over *King*, with the Examiner opining that those of ordinary skill in the art will recognize that medium for storing data can be any computer or processor-based system. However, whether one of ordinary skill in the art would recognize that the storage medium of *King* could be modified to meet that which is claimed is insufficient to maintain a proper rejection under 35 U.S.C. § 102.

Moreover, to qualify as prior art under 35 U.S.C. § 102(b), a reference must have been patented or published more than a year prior to the date of the present application for patent. As pointed out in the Response filed February 20, 2001, the present application claims priority to United States patent number 6,058,415 filed July 25, 1997. As *King* was patented and, presumably, published on February 16, 1999, it does not provide a proper 35 U.S.C. § 102(b) reference.

Accordingly, Applicant respectfully asserts that the claims now improperly stand finally rejected under 35 U.S.C. § 102(b). Accordingly, Applicants respectfully request, pursuant to M.P.E.P. § 706.07(c), that the Examiner reconsider the final status of the Office Action and withdraw the finality of the rejection pursuant to M.P.E.P. § 706.07(d).

IV. The 35 U.S.C. § 102 Rejections

Claims 1-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *King* et al., patent number 5,872,841 (hereinafter *King*). To anticipate a claim under 35 U.S.C. § 102, a reference must teach every element of the claim, see M.P.E.P. § 2131. However, *King* does not teach every element of the claims.

The prior arguments with respect to rejection of the claims under 35 U.S.C. § 102(b) over *King* submitted by Applicant in the Amendment filed February 20, 2001, are believed to still be applicable to the above rejection of record and are, accordingly, incorporated herein.

However, for the sake of brevity, those arguments will not be repeated herein. Applicant respectfully requests that the Examiner reconsider Applicant's previous arguments in combination with the comments set forth below.

A. The Independent Claims

Independent claims 1 and 8 recite providing calendaring information to a call routing system for modification of a call routing scheme of the call routing system as a function of calendaring information. Similarly, independent claim 15 recites providing calendaring information for modification of operation of the call routing system to route calls as a function of calendaring information.

Both in the Final Office Action and in the telephone interview of July 5, 2001, the Examiner has asserted that the call routing system of the claims is met by the voice mail system (i.e., voice mail system 14 in Figure 2) of *King*. The Examiner further asserts in the Final Office Action that calendaring or scheduling information is stored in a database (i.e., calendar data 54 in Figure 2 or calendar 61 of Figure 3) within the calendar system (i.e., calendar system 15 of Figure 2). The Examiner then concludes that the calendar of called party is provided to an agent module (i.e., agent module 52 of calendar system 15 in Figure 2 or agent module 60 of calendar system 15 in Figure 3) where the call routing scheme for completing a call between calling and called parties is configured by the agent module.

1. The *King* Voice Mail System is Not Provided Calendaring Information for Modification of the Voice Mail System as a Function of Calendar Information

Applicant points out that voice mail system 14 of *King* is separate and distinct from calendar system 15 thereof, see e.g., Figures 1 and 2 and column 3, lines 33-47. Accordingly, it is not understood how providing agent module 52 or 60 of calendar system 15 with calendar information from calendar data 54 or calendar 61 can be read to anticipate providing calendaring information to voice mail system 14 of *King* for modifying any aspect of voice mail system 14. Of particular interest with respect to Applicant's position is the fact that the

agent modules of *King* operate to update calendars stored within the calendar system itself, see column 6, lines 35-39, and not the voice mail system of *King*.

The only interaction between calendar system 15 and voice mail system 14 with respect to the scheduling of a call (the function of agent modules 52 and 60 using calendar data 54 and 61) appear to be for voice mail system 14 to forward the request for a scheduling call and captured telephone number to calendar system 15, see column 4, lines 3-5, for voice mail system 14 to capture additional information from the calling party for providing to calendar system 15, see column 4, lines 6-8, and for voice mail system 14 to utilize speech synthesis technology to speak the changes made to the calendars by calendar system 15, see column 6, lines 58-60. No disclosed interaction between voice mail system 14 and calendar system 15 can be read to provide calendaring information to voice mail system 14 for modifying any aspect of voice mail system 14 as a function of the calendar information. Accordingly, it is respectfully asserted that independent claims 1, 8, and 15, as well as the claims dependent therefrom, are not anticipated under 35 U.S.C. § 102 over *King*.

2. The Voice Mail System of *King* is Not Modified to Route Calls as a Function of Calendar Information

Even assuming *arguendo* that some aspect of voice mail system 14 of *King* is modified by calendar system 15 using calendar information, Applicant respectfully asserts that any modification of voice mail system 14 by calendar system 15 which might be gleaned from the disclosure of *King* it is not enough to meet the claims. Specifically, the claims recite that the call routing system is modified to route calls as a function of calendaring information, which simply is not present in the disclosure of *King*.

In operation according to *King*, when a call is made to a telephone which is not answered, voice mail system 14 can access calendar system 15 to schedule a later call, see column 3, lines 28-35. Thereafter, when a call is scheduled by calendar system 15, the scheduled time is forwarded to the calling party, such as through voice mail system 14, see column 3, lines 35-37. However, there is no interaction between calendar system 15 and

voice mail system 14 to modify voice mail system 14 to route calls as a function of calendaring information.

The term “routing,” as defined by Merriam Webster’s Collegiate Dictionary, tenth edition, at page 1021, means “1: to send by a selected route : DIRECT <was routed along the scenic shore road> 2: to divert in a specified direction.” Consistent with this definition of the term, the present application teaches “[h]aving been provided information with respect to a user being unavailable between the hours of 6:00 a.m. and 9:00 a.m., when the communication system receives a call for that particular user at, for example, 7:00 a.m. the call processing application would know that the user is unavailable [and] instead of routing the call through to the user’s office phone number, the call processing application might direct the call to the user’s voice mail,” page 14, lines 14-19, see also page 15, line 28, through page 16, line 10.

There is no hint or suggestion of routing of calls by voice mail system 14 as a function of calendar information provided by calendar system 15. Indeed, in direct contrast to the recited modification of the call routing system for call routing based upon calendar information, *King* teaches that either the calling party or the called party must actually initiate the later scheduled call at the appropriate time, see column 5, lines 33-34, and column 6, lines 35-54. Accordingly, it is respectfully asserted that claims 1, 8, and 15, as well as the claims dependent therefrom, are not anticipated under 35 U.S.C. § 102 over *King*.

3. *King* Does Not Teach a General Purpose Processor-Based System Storing Calendaring Information

As pointed out by Applicant in the Response filed February 20, 2001, independent claims 1 and 8 recite storing calendaring information on a general purpose processor-based system. Rather than teaching a general purpose processor-based system storing called party calendaring information as recited in claims 1 and 8, *King* teaches that the called party calendar system is within a telephone system, see column 2, line 28.

The Examiner has asserted in the Final Office Action that "those of ordinary skill in the art will recognize that medium for storing data can be any computer or processor-based system." However, this is insufficient to establish an anticipation rejection under 35 U.S.C. § 102. Specifically, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989), in order for a prior art reference to be anticipatory under 35 U.S.C. § 102. Accordingly, it is asserted that the rejection of these claims under 35 U.S.C. § 102 is improper and the rejection of record should be withdrawn.

B. The Dependent Claims

Dependent claims 2-7, 9-14, and 16-20 stand rejected under 35 U.S.C. §102 over *King*. As shown above, the base claims from which these dependent claims depend recite limitations neither taught nor suggested by the disclosure of *King*. Moreover, Applicant has shown in the Response filed February 20, 2001 that the dependent claims recite additional new and non-obvious limitations not found in the disclosure of *King*, which remain unaddressed by the Final Office Action. Accordingly, it is asserted that the dependent claims are patentable over the applied art.

V. Summary

As shown above, there are great differences between the claims and the prior art. Moreover a person of ordinary skill in the art considering the prior art would not find these differences obvious. Accordingly, Applicant respectfully traverses the Examiner's 35 U.S.C. § 102 rejections of record. Therefore, Applicant respectfully requests that the claims be passed to issue.

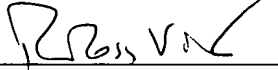
Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that a discussion would be helpful in resolving any remaining problems.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Dated: July 26, 2001

Respectfully submitted,

By 

R. Ross Viguet

Registration No.: 42,203

FULBRIGHT & JAWORSKI L.L.P.

2200 Ross Avenue

Suite 2800

Dallas, Texas 75201

(214) 855-8185

(214) 855-8200 (Fax)

Attorneys for Applicant

Version With Markings to Show Changes Made

The paragraph at page 1, lines 1-7, has been amended as follows:

This application is a divisional of commonly assigned [and] United States patent number 6,058,415, application serial number 08/899,953, filed July 24, 1997, entitled "SYSTEM AND METHOD FOR INTEGRATION OF COMMUNICATION SYSTEMS WITH COMPUTER-BASED INFORMATION SYSTEMS," priority to which filing date is claimed through related commonly assigned and co-pending United States patent application serial number 09/528,816 filed March 20, 2000, entitled "ONE NUMBER LAN BASED CALENDAR," the disclosures of which are hereby incorporated herein by reference.